

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matters of	)	
	)	
Rural Call Completion	)	WC Docket No. 13-39
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
A National Broadband Plan for Our Future	)	GN Docket No. 09-51
	)	
Establishing Just and Reasonable Rates for Local Exchange Carriers	)	WC Docket No. 07-135
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	
Developing an Unified Intercarrier Compensation Regime	)	CC Docket No. 01-92
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Lifeline and Link-Up	)	WC Docket No. 03-109
	)	
Universal Service Reform – Mobility Fund	)	WT Docket No. 10-208

**REPLY COMMENTS OF WEST TELECOM SERVICES, LLC  
IN RESPONSE TO  
THIRD FURTHER NOTICE OF PROPOSED RULEMAKING**

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## EXECUTIVE SUMMARY

West Telecom Services, LLC (“West”) recommends, along with many other commenting parties, that the Commission not micro-manage the compliance efforts of intermediate service providers under the *Rural Call Completion Act*. A balanced, flexible approach is consistent with that applied by the Commission with respect to “covered providers,” and many providers are both intermediate providers and covered providers.

West specifically recommends that the Commission eliminate the two-hop cap on use of intermediate providers for qualification for safe harbor status, and, if it is retained, implement the narrow, common-sense exceptions recommended in West’s initial Comments. Given the adoption of flexible intermediate provider prospective and retrospective self-monitoring obligations, as well as adoption of service quality standards, the Commission has already addressed the ways in which covered providers and intermediate providers can themselves and collaboratively remediate rural call completion problems. Addition of a two-hop cap does nothing to advance achievement of improved rural call completion rates, but it needlessly restricts competition and denies providers the network flexibility they require to respond quickly to changes in the dynamic telecommunications environment.

The Commission should also extend the compliance deadlines included in its proposed rules. In addition to giving intermediate providers a minimum of ten business days to update previously-filed registration information, the Commission should extend the time period allowed for covered providers to discontinue use of unregistered providers to a minimum of six months following the registration deadline for intermediate providers, to allow for verification of registration and re-

negotiation of contract agreements. The Commission should also clarify that, while “crank-back” is an appropriate, good faith response in many situations, it is not appropriate to employ crank-back artificially to distort routings by rejecting calls capable of termination in favor of alternative routes that a rejecting provider or local telephone company prefers for financial or other reasons.

Finally, drastic remedies such as fines and de-certification of intermediate providers should be employed only if there is clear and conclusive evidence of a persistent pattern of un-remedied rural call completion problems or other material non-compliance that is directly attributable to the deliberate action or inaction of the affected provider.

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**REPLY COMMENTS OF WEST TELECOM SERVICES, LLC  
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**I. INTRODUCTION**

West Telecom Services, LLC (“West”)<sup>1</sup> respectfully submits these reply comments (“West Reply Comments”) in response to the Commission’s *Third Further Notice of Proposed Rulemaking*<sup>2</sup> in the above-referenced proceeding,<sup>3</sup> in which West previously filed initial

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<sup>1</sup> West Telecom Services, LLC (“West”) is a wholly-owned subsidiary of West Corporation, a leading technology enablement company connecting people and businesses around the world.

<sup>2</sup> *Rural Call Completion*, Second Report and Order and Third Further Notice of Proposed Rulemaking, WC Docket No. 13-39, FCC 18-45 (rel. Apr. 17, 2018) (respectively, “*Second ReO*” and “*Third FNPRM*”).

comments.<sup>4</sup> These Reply Comments focus on the importance of giving intermediate service providers flexibility in implementing their rural call completion (“RCC”) responsibilities. The Reply Comments also request clarification of the Commission’s proposed service quality standards with respect to “crank-back” practices.

## **II. CONSISTENT WITH ITS APPROACH TO RESPONSIBILITIES OF COVERED PROVIDERS, THE COMMISSION SHOULD NOT MICRO-MANAGE THE IMPLEMENTATION BY INTERMEDIATE PROVIDERS OF THEIR RURAL CALL COMPLETION RESPONSIBILITIES.**

In the *Second R&O*, the Commission stated that in adopting RCC rules for “covered providers,” the Commission was employing a “balanced approach [that] ensures that covered providers exercise responsibility for rural call completion without imposing an unduly rigid or burdensome mandate.”<sup>5</sup> ATIS agreed with the Commission’s approach, and recommended that the Commission apply this same flexible approach to the service quality obligations of intermediate service providers.<sup>6</sup> As several parties pointed out, many service providers are both covered providers and intermediate providers, and implementing different compliance

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<sup>3</sup> *Rural Call Completion*, Second Report and Order and Third Further Notice of Proposed Rulemaking, WC Docket No. 13-39, FCC 18-45 (rel. Apr. 17, 2018) (respectively, “*Second R&O*” and “*Third FNPRM*”). A summary of the *Third FNPRM* was recently published in the Federal Register. Federal Communications Commission, *Rural Call Completion*, 83 FR 21983, 21983-95 (May 11, 2018).

<sup>4</sup> *Comments of West Telecom Services, LLC in Response to Third Further Notice of Proposed Rulemaking*, WC Dkt. 13-39 et al. (filed Jun. 4, 2018) (“*West Comments*” or “*Comments*”). All cited comments of third parties were also filed in WC Docket No. 13-39 on June 4, 2018, and citations to such filings in these Reply Comments therefore specify only the filing parties and document titles. West continues to support the recommendations made in the *West Comments*.

<sup>5</sup> *Second R&O* at 6, ¶ 12.

<sup>6</sup> *Comments of the Alliance for Telecommunications Industry Solutions* (“*ATIS Comments*”) at 4 n.7; *accord*, *Comments of INCOMPAS* (“*INCOMPAS Comments*”) at 4 (commending Commission rejection of specific mandates for covered provider obligations in favor of “strategies that have worked to reduce rural call completion problems” and endorsing granting intermediate providers “the same flexibility in terms of process to self-monitor rural call completion performance” granted covered providers in the *Second R&O*).

obligations would be unnecessarily burdensome without promoting improved RCC.<sup>7</sup> Intermediate providers, like covered providers, should have the flexibility to determine how best to promote effective RCC and monitor the results of their processes in light of their unique networks and the dynamic telecommunications environment.<sup>8</sup> Rigid, detailed requirements could hamper, not promote, improved RCC rates by diverting provider resources to compliance with outdated or inapplicable requirements instead of allowing each provider to focus its resources on its individual circumstances.<sup>9</sup>

With respect to specific proposed requirements, as West recommended in its initial *Comments*, the Commission should not limit the number of intermediate carrier “hops” in a call path in order for safe harbor certification.<sup>10</sup> ATIS agrees that limiting the number of intermediate providers in a call path is unnecessary, recommending instead removal of those providers that are not performing properly.<sup>11</sup> Following extensive research, Verizon concluded in its *Verizon Report* that multiple intermediate hops in a call path did not in itself cause RCC

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<sup>7</sup> *Comments of Verizon on the Third Further Notice of Proposed Rulemaking* (“*Verizon Comments*”) at 12; *ATIS Comments* at 4; *Comments of USTelecom – The Broadband Association* (“*USTelecom Comments*”) at 6.

<sup>8</sup> *Verizon Comments* at 11 (quoting *Second R&O* at 9, ¶ 18 and noting Commission rejected a “one-size-fits-all” approach for covered providers). See also *ATIS Comments* at 4 (*ATIS Rural Handbook* a living document that should not be frozen); *USTelecom Comments* at 7 (noting the chilling effect of delineating rigid service quality standards and the difficulty of later altering a rule).

<sup>9</sup> See *Verizon Comments* at 9 n.31 (citing *Second R&O* at 10, ¶ 19) (converting voluntarily developed best practices into mandatory standards “could have a chilling effect on future industry cooperation to develop solutions to industry problems” as the Commission concluded with respect to covered providers). See also *ATIS Comments* at 2 (“ATIS appreciates the Commission’s decision not to mandate the Best Practices from the handbook – this will allow the industry to effectively maintain and update this important industry guidance.”). The *Verizon Report* explained in detail the difficulties of using various metrics for self-monitoring. See, generally, *Verizon Public Report (Rural Call Completion Report)*, WC Dkt. 13-39 (filed Jun. 4, 2018) (“*Verizon Report*”) at 2 – 3, 16 – 26.

<sup>10</sup> *West Comments* at 19 – 21.

<sup>11</sup> See *ATIS Comments* at 5 (removing poorly performing providers more effective than limiting the number of intermediate providers in a call path). See, generally, *Verizon Comments* at 8 – 10.

problems, and that “ultimately, each provider should have the flexibility to determine when and where to use intermediate providers, and how many to use, as long as it continues to provide appropriate levels of service in accordance with FCC requirements.”<sup>12</sup>

The number of “hops” in a call path is an inaccurate and thus an inappropriate proxy for identifying specific intermediate providers or routing practices that interfere with RCC. A single “bad” intermediate hop can adversely affect RCC rates, while multiple “good” hops can improve RCC rates. A “hop cap” is thus both over-inclusive and under-inclusive. As West has shown,<sup>13</sup> the Commission’s Rules should focus not on the number of intermediate carrier “hops” in a call path, but rather on the nature of the intermediate carrier “hops” in the call path and on facilitating intermediate providers’ collaborative efforts to prevent and eliminate “bad” hops.

By opting for rules imposing flexible self-monitoring responsibilities<sup>14</sup> and specifying service quality standards that discourage non-standard routing practices,<sup>15</sup> the Commission will already have addressed potential intermediate provider practices that may adversely affect rates of rural call completion. Other circumstances that can cause RCC problems, such as limitations

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<sup>12</sup> *Verizon Report* at 31.

<sup>13</sup> *West Comments* at 19 - 21.

<sup>14</sup> West agrees with other commenting parties that the Commission should not require self-monitoring to be metrics-based. *See Comments of Sprint Corporation (“Sprint Comments”)* at 5 (giving examples of local calling situations that could affect RCC rates as a reason not to require providers’ self-monitoring to be based on metrics). *See also, generally, Verizon Report* at 2 – 3, 16 - 26 (detailing difficulties in metrics-based monitoring). *See also Comments of Alaska Communications (“Alaska Communications Comments”)* at 2 (MF signaling precludes use of metrics in monitoring).

<sup>15</sup> *See Third FNPRM* at 35 – 36, ¶ 87, and Proposed Rule No. 64.2117 (*Third FNPRM*, Appendix C) (proposing prohibitions on certain service provider practices). *See also Comments of Affinity Network, Inc. d/b/a Ani Networks (“ANI Comments”)* at 4 – 5 (Commission rules should specify only basic standards but “not impose more complex service quality standards” restricting providers’ flexibility).



in facilities of terminating rural telephone companies,<sup>16</sup> unusually high call volumes caused by emergency conditions,<sup>17</sup> inadvertent inclusion in a call path of a provider from whom the called party's number was ported,<sup>18</sup> or non-standard call crank-backs<sup>19</sup> are outside the control of both covered providers and intermediate providers.<sup>20</sup>

Providers' good faith implementation of the self-monitoring and service quality compliance standards is a self-effectuating means of remediating virtually all RCC issues these providers can address, without the need for unnecessary constraints on the providers' network operations. The Commission should agree with ATIS and reject as unnecessary any mandate that would "require providers to take reasonable steps to limit the number of intermediate

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<sup>16</sup> In some cases, calls that might be deemed to involve RCC problems reflected an incorrect RLEC return code. See *Verizon Report* at 19. The more limited signaling available from legacy switches using MF signaling may also result in inadvertent inclusion of "false positives" in metrics that might be used to evaluate the scope of RCC problems. See *Alaska Communications Comments* at 2 (use of MF signaling by legacy rural switches incompatible with metrics-based monitoring); see also *Verizon Report* at 19 - 20.

<sup>17</sup> See *Verizon Report* at 22 (noting the low call completion rate of government-generated announcement calls). See also, *id.*, at 31 (use of alert systems can cause rural telephone company facilities overload), 32 (possible adverse impact of autodialer use on service levels).

<sup>18</sup> See *Verizon Comments* at 3 n.11. Verizon also notes that certain hand-offs are properly not to be deemed intermediate provider hops, such as hand-offs to the tandem of a third party whose tandem is subtended by a rural telephone company, or hand-offs to "a carrier to which the terminating provider requires an indirectly interconnecting carrier to deliver traffic." *Verizon Comments* at 19 n.62, 20. Cf. *West Comments* at 22 - 24 (requesting an exception from any hop cap when reasonable requests for direct connection have not been implemented by the terminating rural telephone company). Other conditions outside the control of intermediate providers that may affect RCC rates include fiber cuts, equipment outages, and user calling campaigns. See *Verizon Report* at 3.

<sup>19</sup> See discussion, *infra*, in Section III.

<sup>20</sup> See *Comments of Inteliquent* ("*Inteliquent Comments*") at 2 n.2:

As the Commission explained in the *Second Report and Order*, a covered provider or carrier may deem its call completion duties satisfied, as articulated in the 2012 *Declaratory Ruling*, if it: "(a) promptly resolves any anomalies or problems and takes action to ensure they do not recur; or (b) determines that responsibility lies with a party other than the provider itself or any of its downstream providers and uses commercially reasonable efforts to alert that party to the anomaly or problem." *Second R&O* at para. 25. In the case of calls intentionally rejected by the receiving party or its LEC, the responsibility clearly 'lies with' that party or the LEC.

providers after them in the call chain.”<sup>21</sup> Imposition of this unnecessary requirement would do little if anything more to alleviate rural call completion problems, and it could be detrimental to improving telephone services in rural areas.<sup>22</sup> The Commission should therefore decline to adopt such a “hop cap.”<sup>23</sup>

With respect to timeframes for implementation of the new rules, West, like many other commenting parties, continues to recommend that the Commission adjust a number of its proposed timelines.<sup>24</sup> First, there should be a minimum of ten business days for updating of intermediate provider registration information.<sup>25</sup> Second, the Commission should adopt rules with implementation timelines that acknowledge the time needed to negotiate contract modifications that reflect final intermediate providers’ RCC rules,<sup>26</sup> and the time needed for upstream providers to confirm the registration status of downstream providers.<sup>27</sup> Six months

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<sup>21</sup> *ATIS Comments* at 5 (quoting Third FNPRM at 36, ¶ 89).

<sup>22</sup> If the Commission nonetheless proceeds to adopt proposed rules limiting the number of intermediate provider “hops” in a call path permitted for safe harbor certification, then the Commission should also incorporate in its final rules the limited exceptions to the “hop cap” proposed in the *West Comments*. *West Comments* at 22 - 28 (recommending the hop cap be inapplicable to situations in which (1) there are national or local circumstances resulting in abnormally heavy call volumes in a rural services area, and/or (2) where an intermediate provider has been unable to obtain direct connection to the terminating rural telephone company despite having traffic volumes warranting such facilities augmentation).

<sup>23</sup> If it nonetheless proceeds to adopt a “two-intermediate-provider” cap, or, as proposed by Inteliquent, a “three-intermediate-provider” cap, *Inteliquent Comments* at 3, the Commission’s rules should include the specific exceptions recommended in the *West Comments*. These exceptions are consonant with the Commission’s view in the *Second R&O* that certain transport arrangements should not be deemed “hops.” See n.18, *supra*.

<sup>24</sup> USTelecom has filed a petition requesting a stay of the rules requiring covered providers to monitor intermediate providers pending completion of this proceeding and adoption of rules governing obligations of intermediate providers. *USTelecom – The Broadband Association Petition for Stay*, WC Dkt. 13-39 (filed Jun. 11, 2018).

<sup>25</sup> See *West Comments* at 10; see also *INCOMPAS Comments* at 2. Verizon recommends a 30-day update period. *Verizon Comments* at 5.

<sup>26</sup> See *USTelecom Comments* at 8; see also *Sprint Comments* at 3 (at least 90 days after intermediate providers’ registration deadline required for contract renegotiation).

<sup>27</sup> See, e.g., *Verizon Comments* at 13; *West Comments* at 10; *ANI Comments* at 4 (requirement to use only covered providers should take effect no earlier than three months after the intermediate

or more may be required to accommodate this,<sup>28</sup> particularly if the Commission does not grandfather existing contracts<sup>29</sup> or authorize providers to terminate contracts in good faith without liability if the contracts contain provisions inconsistent with the implementation of the new RCC rules.<sup>30</sup>

### **III. THE COMMISSION SHOULD CLARIFY THE INTERMEDIATE PROVIDER SERVICE QUALITY STANDARD WITH RESPECT TO NONSTANDARD “CRANK-BACK” PRACTICES.**

The Commission should modify its proposed rules to clarify that in certain circumstances “crank-back” should be discouraged. The Commission’s service quality standard in Proposed Rule § 64.2117(a)(2) requires intermediate providers to take reasonable steps to “release a call back to the originating interexchange carrier if the intermediate provider fails to find a route for completion of the call.” This is intended to prevent dropped calls. However, as reflected in the comments of a number of parties, in some circumstances “crank-back” may be misused and may be an inappropriate practice because a potential call completion route has been artificially closed. This may delay call completion.

The Commission’s service quality standard should therefore be clarified to discourage the use of “crank-back” when it is used to distort a call routing, in lieu of following such standard industry practice as implementing the relevant LERG<sup>TM31</sup> routing. In such cases, although it has sufficient facilities and otherwise is capable of transporting the call, a provider

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provider registration deadline); *INCOMPAS Comments* at 3, 7 - 8 (prohibition on use of unregistered providers requires a six-month phase-in).

<sup>28</sup> See *Verizon Report* at 15 (Verizon needing six months to amend contracts with two intermediate providers). See also *ATIS Comments* at 3 (three-year contract term common in the industry warrants three year phase-in period).

<sup>29</sup> See *ATIS Comments* at 4.

<sup>30</sup> See *West Comments* at 10.

<sup>31</sup> See iconectiv, *LERG<sup>TM</sup> Routing Guide* (2018) (“LERG<sup>TM</sup>”). LERG<sup>TM</sup> products are described at the following URL:

[http://www.trainfo.com/products\\_services/tra/catalog\\_details.html#LERG](http://www.trainfo.com/products_services/tra/catalog_details.html#LERG).

in the proposed call path rejects a proposed routing from an upstream provider and sends a “crank-back” message to the upstream provider. The call is rejected specifically because the downstream provider prefers for its own reasons to handle only calls utilizing another, non-standard routing. In such situations, the “crank-back” messages are not sent in good faith consistent with standard industry practices.

The Commission’s Rules should therefore discourage this type of “crank-back”<sup>32</sup> and deem it an unacceptable practice when a call that can go through via, for example, the LERG<sup>TM</sup> routing is nonetheless deliberately rejected and cranked-back to the upstream provider specifically to promote non-standard call routings employed for the greater financial benefit of the “cranking-back” provider and/or its affiliates or partners.<sup>33</sup>

#### **IV. DE-REGISTRATION AND SIMILAR ENFORCEMENT MECHANISMS SHOULD BE EMPLOYED ONLY FOLLOWING A SHOWING OF A CLEAR AND CONTINUED PATTERN OF NON-COMPLIANCE.**

The Commission should also follow the recommendation of ATIS to refrain from exercising enforcement authority to require de-registration of an intermediate provider except when there is “a clear and conclusive pattern of non-compliance” on the part of the

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<sup>32</sup> Several parties reported situations in which calls using the call routing specified in the LERG<sup>TM</sup> for transmitting a call to a specific rural telephone company are “cranked-back” to the upstream provider so that, for example, the call will be placed again and carried via an alternative, higher-cost route. See *Inteliquent Comments* at 7 – 8; see also *Comments of HD Tandem* at 3; *ANI Comments* at 6. To the extent that such non-standard access stimulation practices result in overload of terminating rural telephone company facilities, adoption of West’s proposed 4 T-1 level traffic standard as a *prima facie* standard for facilities augmentation, *West Comments* at 20 - 21, could help ameliorate this source of RCC problems. ANI also noted that in some cases a crank-back code is erroneously sent instead of a code indicating a call to an unallocated number, thus causing originating providers unnecessary network usage. *ANI Comments* at 5.

<sup>33</sup> Providers should not, however, be discouraged from using crank-back to favor a non-LERG<sup>TM</sup> routing during such facilities-exhaust situations as local emergencies, when any possible routing should be employed to transmit greatly increased critical traffic. Cf. *ATIS Comments* at 4 (use of unregistered intermediate providers should be permitted in times of natural disasters).

intermediate provider.<sup>34</sup> As the *ATIS RCC Handbook* recognizes, even networks engineered to the P.01 industry standard will experience some incomplete calls,<sup>35</sup> and unusually high volumes of traffic may have a particularly great impact on limited rural telephone company facilities.

Such drastic remedies as de-certification of a registered provider or heavy fines should not be imposed lightly or absent unequivocal evidence of persistent serious RCC problems directly attributable to the deliberate action or inaction of the affected provider. As discussed above, many of the circumstances that cause RCC problems are outside the control of both covered providers and originating providers. Recognizing this, ATIS recommends that “covered and intermediate providers not be held accountable for call completion issues stemming from failures or degradations in the network of terminating carriers.”<sup>36</sup> The Commission should adopt this ATIS recommendation.

Through a focus on provider self-monitoring of anomalous situations and participation in collaborative remediation efforts, rather than on recordkeeping and responses to potential enforcement inquiries, virtually all non-incidental problems attributable to third parties can be identified.<sup>37</sup> Particularly when an affected provider receives a complaint it can investigate,<sup>38</sup> providers can resolve most such situations through industry cooperation, facilitated by the new provider registry and contact information available through it. In an industry environment in which most providers are committed to operating in good faith conformance with standard industry practices, the Commission can best and most directly promote prompt improvement

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<sup>34</sup> *ATIS Comments* at 5.

<sup>35</sup> See Alliance for Telecommunications Industry Solutions, *Intercarrier Call Completion/ Call Termination Handbook*, ATIS-0300106 (2015) (“*ATIS RCC Handbook*”) at 31 - 32, Clause 5.4, *Network Congestion*.

<sup>36</sup> *ATIS Comments* at 6. Verizon’s extensive research, for example, uncovered virtually no situations in which a RCC problem was attributable to its own network or routing practices. *Verizon Report* at 3.

<sup>37</sup> Significantly, rural carrier RCC complaints to the Commission fell 45% between 2015 and 2016, and 15% between 2016 and 2017. *Second R&O* at 5, ¶ 9 and n.35.

in RCC rates by allowing providers to focus their resources on self-monitoring and collaborative remediation.

## **CONCLUSION**

For the reasons discussed above, the Commission should adopt the recommendations proposed by West in its initial *Comments* and these Reply Comments when the Commission adopts regulations implementing the provisions of the *Rural Call Completion Act*.<sup>39</sup> As stated in West's initial *Comments*, the Commission should also grant the long-pending waivers of the call signaling rules in this proceeding.

Respectfully submitted,

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<sup>39</sup> 47 U.S.C. § 262 (June 19, 1934, ch. 652, title II, §262, as added Pub. L. 115–129, §2, Feb. 26, 2018, 132 Stat. 329).

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